IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 348 OF 2004

Shubhangi A. Kolekar & Anr. ..Appellants

versus

Suresh V. Sadolikar & Anr. ..Respondents

Mr. M. V. Limaye for the Appellants.

Mr. Y. V. Divekar for the Respondent No.1.

CORAM : D. G. DESHPANDE,J.

DATE : 17TH AUGUST, 2005

P.C. :

1. Heard.

2. Appellant is the original defendant against whom the plaintiff - respondent filed a suit for declaration that the sale deeds executed by the appellant in favour of other defendants were not binding upon them. That suit was decreed and hence the original defendants - transferees have filed this appeal.

3. The crucial question in the case is challenge by the plaintiffs to the sale deeds executed by the appellants - defendant Nos. 1 and

2, but they are transferees. Respondent Nos. 5 to 12 whose rights are directly affected by the decree have not at all challenged the decree, which means that they have accepted the decree. Now as such the appellant has no interest in the property. It might be that in order to protect the interest of the transferees they contested the suit but it was now for the transferees to challenge the decree. Since that has not been done, there is no substance in this appeal.

3. Secondly, the appellant did not enter into witness box at all to refute the contentions of the plaintiff - respondent. This is also a major hindrance or obstacle in their way in this appeal. They cannot factually challenge the finding for want of evidence from their side. There is no merit in this appeal, the same is dismissed.

17.8.2005 (D.G. DESHPANDE, J.)